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*Attorneys for Plaintiff*  
*United States Secretary of Labor*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA

MARTIN J. WALSH, Secretary of Labor, United  
States Department of Labor

Plaintiff,

v.

Unforgettable Coatings, Inc., a Nevada  
Corporation; et al.

Defendants.

Case No. 2:20-cv-00510-KJD-DJA

**SECRETARY'S UNOPPOSED  
MOTION TO EXTEND DEADLINES  
TO RESPOND TO DEFENDANTS'  
[ECF Nos. 131 & 132] MOTIONS TO  
COMPEL**

**First Request**

Pursuant to LR IA 6-1, the Secretary submits the following Unopposed Motion to Extend Deadline to Respond to Defendants' [ECF No. 131] Motion to Compel re: Deliberative Process and Investigative Files Privilege and [ECF No. 132] Motion to Compel re: Work Product Privilege ("Motions to Compel"). This is the Secretary's first request for an extension of the subject deadline. Defendants' Motions to Compel were filed on January 10, 2022, responses are due January 24, and replies are due January 31. The Secretary respectfully requests that his responses be due January 31, 2022, and the replies be due February 7. This Motion is based on the following points and authorities, the attached exhibits, the pleadings and papers on file, and any additional

evidence the Court deems appropriate to consider.

## MEMORANDUM OF POINTS AND AUTHORITIES

### I. INTRODUCTION

The Secretary respectfully requests that the deadline to respond to Defendants’ [ECF No. 131] Motion to Compel re: Deliberative Process and Investigative Files Privilege and [ECF No. 132] Motion to Compel re: Work Product Privilege (“Motions to Compel”) be extended from January 24, 2022 to January 31, 2022. Defendants shall submit their Replies on February 7, 2022. Defendants do not oppose this one-week extension, and the Secretary’s request is made for good cause and not for purpose of delay. Defendants will not be prejudiced and the scheduling calendar will not be disrupted.

### II. LEGAL STANDARD

A court may grant a request to extend time for good cause. Fed. R. Civ. P. 6(b)(1)(A); *Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1258–59 (9th Cir. 2010). Good cause is a non-rigorous standard that has been construed broadly. *Id.* at 1259-1260. Motions filed before the deadline expires should generally be granted if the requesting party did not move in bad faith and no prejudice would accrue to any other party. *Id.* at 1259. Under LR IA 6-1, a “A motion or stipulation to extend time must state the reasons for the extension requested and must inform the court of all previous extensions of the subject deadline the court granted.”

### III. ARGUMENT

The Secretary submits this unopposed motion with good cause as it does not prejudice Defendants, alter the current scheduling calendar, and is not made for the purpose of delay. After Defendants’ Motions to Compel were filed on January 10, 2022, the Secretary contacted opposing counsel to inform them that the documents in Defendants’ 285-page exhibit (ECF No. 131-11) did not include the Bates numbers they were produced with and to request a stipulation to extend the briefing schedule for these motions. Declaration of Charles Song (“Song Decl.”) ¶ 2. The next day, January 12, 2022, Defendants responded saying that they would re-file the exhibit with the Bates numbers but would not stipulate to extend the briefing schedule. *Id.* at ¶ 3. Defendants then filed a

corrected exhibit with Bates numbers (ECF No. 134) *Id.* On January 14, 2022, the Secretary contacted Defendants to query whether they would oppose the Secretary's motion to extend the briefing schedule for Defendants' Motions to Compel filed on January 10, 2022 (ECF Nos. 131, 132). *Id.* at ¶ 4. Defendants responded that "as a general matter" they did not oppose the Secretary's motion to extend the time to respond to Defendants' motions to compel but noted that extending the opposition deadlines would also require extension of the reply deadlines in ECF No. 133. *Id.*

The Secretary respectfully requests that the Court extend the deadline to respond to Defendants' [ECF Nos. 131, 132] Motions to Compel to January 31, 2022. The Motions to Compel request the re-noticing of 8 depositions and un-redactions of hundreds of pages of Secretary's document production that are redacted under the investigative files, deliberative process, and attorney-work product privileges. To adequately brief these issues, the Secretary will have to review hundreds of pages of redacted documents and depositions. This review also requires involvement of the National Office, which requires additional time. As a result, the Secretary has good cause for a first request to extend time to respond to Defendants' Motions to Compel.

#### IV. CONCLUSION

The Secretary respectfully requests that this Court grant this Unopposed Motion to Extend Deadline to Respond to Defendants' [ECF Nos. 131 & 132] Motions to Compel.

Dated: January 14, 2022

Respectfully submitted,

SEEMA NANDA  
Solicitor of Labor

SUSAN G. KUMLI  
Acting Regional Solicitor

/s/ Charles Song  
CHARLES SONG  
Senior Trial Attorney

/s/ Jessica Flores  
JESSICA FLORES  
Senior Trial Attorney

/s/ Kathryn Panaccione  
KATHRYN PANACCIONE  
Trial Attorney

/s/ Victoria Yee  
VICTORIA YEE  
Trial Attorney

Attorneys for Plaintiff  
United States Department of Labor

**INDEX OF EXHIBITS**

<b>Exhibit</b>	<b>Description</b>
A	Declaration of Charles Song
B	Email correspondence

**IT IS SO ORDERED.**

DATED: January 18, 2022

  
\_\_\_\_\_  
DANIEL J. ALBREGTS  
UNITED STATES MAGISTRATE JUDGE

**CERTIFICATE OF SERVICE**

I am over eighteen years of age. I am not a party to the within action; my business address is 350 South Figueroa Street, Suite 370, Los Angeles, California 90017.

On January 14, 2022, I served the within **SECRETARY'S UNOPPOSED MOTION TO EXTEND DEADLINES TO RESPOND TO DEFENDANTS' [ECF Nos. 131 & 132] MOTIONS TO COMPEL (FIRST REQUEST)** properly addressed to the following:

Paul T. Trimmer  
Holly E. Walker  
Joshua A. Sliker  
Rick J. Sutherland  
Mark A. Hutchinson

Jackson Lewis P.C.  
300 S. Fourth Street, Suite 900  
Las Vegas, NV 89101

215 South State Street, Suite 760  
Salt Lake City, Utah 84111

10080 W. Alta Dr. Suite 200  
Las Vegas, NV 89145

*Attorneys for Defendants*

I certify under penalty of perjury that the above is true and correct.

Executed January 14, 2022

/s/ Charles Song  
Charles Song

Office of the Solicitor  
U.S. Department of Labor

SUSAN GILLET KUMLI  
Acting Regional Solicitor  
ANDREW J. SCHULTZ  
Counsel for Wage and Hour  
CHARLES S. SONG  
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Senior Trial Attorneys  
KATHRYN A. PANACCIONE  
Trial Attorney  
UNITED STATES DEPARTMENT OF LABOR  
Los Angeles, CA 90071-1202  
Telephone: 213-894-3950  
song.charles.c@dol.gov  
*Attorneys for Plaintiff*  
*United States Secretary of Labor*

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

Martin J. Walsh<sup>1</sup>,  
Secretary of Labor,  
United States Department of Labor,  
  
Plaintiff,  
  
vs.  
  
Unforgettable Coatings, Inc., et al.;  
  
Defendants.

CASE NO.: 2:20-CV-00510-KJD-DJA

**DECLARATION OF CHARLES SONG IN  
SUPPORT OF SECRETARY'S  
UNOPPOSED MOTION TO EXTEND  
TIME**

<sup>1</sup> Martin J. Walsh was sworn in as the Secretary of Labor effective March 23, 2021. Pursuant to Fed. R. Civ. P. 25(d), the caption has been revised to reflect this change.

1 I, Charles Song, hereby declare as follows:

2 1. I am a Senior Trial Attorney for the United States Secretary of Labor. I submit this dec-  
3 laration in support of the Secretary's Motion to Extend Time. I have personal knowledge of the matters  
4 set forth below. If called as a witness, I could and would testify competently to the matters set forth in  
5 this Declaration.

6 2. On January 11, 2022, the undersigned contacted opposing counsel to inform them that  
7 documents in Defendants' 285 page Exhibit (ECF No. 131-11) to their motion to compel did not include  
8 the Bates numbers they were produced with and to request a stipulation to extend the briefing time for  
9 Defendants' motions.

10 3. On January 12, 2022, Defendants responded they would refile the exhibit with Bates num-  
11 bers but would not stipulate to extend the briefing schedule. Defendants subsequently filed a corrected  
12 exhibit with Bates numbers (ECF No. 134) that same day.

13 4. On January 14, 2022, the undersigned contacted opposing counsel to determine whether  
14 Defendants would oppose the Secretary's motion to extend the briefing schedule for Defendants' motions  
15 to compel filed on January 10, 2022 (ECF Nos. 131, 132). Defendants responded that "as a general  
16 matter" they did not oppose the Secretary's motion to extend the time to respond to Defendants' motions  
17 to compel but noted that extending the opposition deadlines would also require extension of the reply  
18 deadlines in ECF No. 133. Attached as Exhibit A is a true and correct copy of the email chain.

19 5. This request is made in good faith, and not for the purpose of delay. The Secretary re-  
20 spectfully requests that the Court allow the Secretary to submit his Oppositions to Defendants' motions  
21 to compel filed on January 10, 2022 (ECF Nos. 131, 132) on January 31, 2022, and the Defendants to  
22 submit their Replies on February 7, 2022.

23 I declare under penalty of perjury under the laws of the United States of America that the forgoing  
24 is true and correct.

25  
26 Executed on January 14, 2022, in Los Angeles, California.

27 /s/ Charles Song  
28 CHARLES SONG

DECLARATION OF CHARLES SONG IN SUPPORT OF SECRETARY'S MOTION TO EXTEND TIME

# EXHIBIT A



**Song, Charles C - SOL**

---

**From:** Walker, Holly E. (Las Vegas) <Holly.Walker@Jacksonlewis.com>  
**Sent:** Friday, January 14, 2022 1:59 PM  
**To:** Song, Charles C - SOL; Trimmer, Paul T. (Las Vegas); Sliker, Joshua A. (Las Vegas); Hoyt, Kyle J. (Las Vegas); Sutherland, Rick J. (Salt Lake City); Chatterjee, Milan (Las Vegas)  
**Cc:** Flores, Jessica - SOL SAN; Panaccione, Kathryn A - SOL; Clark, David H. - SOL; Yee, Victoria W - SOL  
**Subject:** RE: Motion to Compel re Deliberative Process and Investigative Files Privilege without Bates numbers

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Charles,

The Court established the briefing schedule on Defendants' Motions via order and stated that "[t]he parties should not file any further motions in advance of the hearing." Defendants intend to comply with the Court's order. That said, as a general matter, Defendants do not oppose Plaintiff's intent to file a motion seeking to extend the time to respond to Defendants' Motions filed on January 10<sup>th</sup>. However, note that extending the opposition deadline by an additional two weeks will require the other deadlines in ECF No. 133 to be extended as well. For example, oppositions would be due on February 7, 2022, replies would be due on February 14, 2022, supplemental briefs due by February 28, 2022 (14 days from reply deadline), and the hearing sometime thereafter.



**Holly E. Walker**

Attorney at Law

**Jackson Lewis P.C.**

300 S. Fourth Street  
Suite 900

Las Vegas, NV 89101

Direct: (702) 921-2467 | Main: (702) 921-2460

[Holly.Walker@Jacksonlewis.com](mailto:Holly.Walker@Jacksonlewis.com) | [www.jacksonlewis.com](http://www.jacksonlewis.com)

---

**From:** Song, Charles C - SOL <Song.Charles.C@dol.gov>  
**Sent:** Friday, January 14, 2022 1:14 PM  
**To:** Walker, Holly E. (Las Vegas) <Holly.Walker@Jacksonlewis.com>; Trimmer, Paul T. (Las Vegas) <Paul.Trimmer@jacksonlewis.com>; Sliker, Joshua A. (Las Vegas) <Joshua.Sliker@Jacksonlewis.com>; Hoyt, Kyle J. (Las Vegas) <Kyle.Hoyt@jacksonlewis.com>; Sutherland, Rick J. (Salt Lake City) <Rick.Sutherland@jacksonlewis.com>; Chatterjee, Milan (Las Vegas) <Milan.Chatterjee@jacksonlewis.com>  
**Cc:** Flores, Jessica - SOL SAN <Flores.Jessica@dol.gov>; Panaccione, Kathryn A - SOL <Panaccione.Kathryn.A@dol.gov>; Clark, David H. - SOL <Clark.David.H@dol.gov>; Yee, Victoria W - SOL <Yee.Victoria.W@dol.gov>  
**Subject:** RE: Motion to Compel re Deliberative Process and Investigative Files Privilege without Bates numbers

**[EXTERNAL SENDER]**

Holly,

Thank you for filing the corrected exhibit with Bates numbers.

Is it also Defendants' position that they would oppose a motion to extend briefing?

Thanks,

Charles Song  
Senior Trial Attorney  
Office of the Solicitor  
U.S. Department of Labor  
350 S. Figueroa St., Suite 370  
Los Angeles, CA 90071  
(213) 894-5365

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**From:** Walker, Holly E. (Las Vegas) <[Holly.Walker@JacksonLewis.com](mailto:Holly.Walker@JacksonLewis.com)>  
**Sent:** Wednesday, January 12, 2022 10:57 AM  
**To:** Song, Charles C - SOL <[Song.Charles.C@dol.gov](mailto:Song.Charles.C@dol.gov)>; Trimmer, Paul T. (Las Vegas) <[Paul.Trimmer@jacksonlewis.com](mailto:Paul.Trimmer@jacksonlewis.com)>; Sliker, Joshua A. (Las Vegas) <[Joshua.Sliker@JacksonLewis.com](mailto:Joshua.Sliker@JacksonLewis.com)>; Hoyt, Kyle J. (Las Vegas) <[Kyle.Hoyt@jacksonlewis.com](mailto:Kyle.Hoyt@jacksonlewis.com)>; Sutherland, Rick J. (Salt Lake City) <[Rick.Sutherland@jacksonlewis.com](mailto:Rick.Sutherland@jacksonlewis.com)>; Chatterjee, Milan (Las Vegas) <[Milan.Chatterjee@jacksonlewis.com](mailto:Milan.Chatterjee@jacksonlewis.com)>  
**Cc:** Flores, Jessica - SOL SAN <[Flores.Jessica@dol.gov](mailto:Flores.Jessica@dol.gov)>; Panaccione, Kathryn A - SOL <[Panaccione.Kathryn.A@dol.gov](mailto:Panaccione.Kathryn.A@dol.gov)>; Clark, David H. - SOL <[Clark.David.H@dol.gov](mailto:Clark.David.H@dol.gov)>; Yee, Victoria W - SOL <[Yee.Victoria.W@dol.gov](mailto:Yee.Victoria.W@dol.gov)>  
**Subject:** RE: Motion to Compel re Deliberative Process and Investigative Files Privilege without Bates numbers

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Charles,

Thank you for bringing this to our attention. The omission of Bates numbers was inadvertent. It appears something happened during our PDF conversion process. We are filing a corrected version with Court. As to your contention that Defendants' motion "includes challenged redactions [you] are seeing for the first time[,]," we disagree.

Regarding your proposal to delay briefing, in light of the Court's minute order yesterday evening, we believe the parties should adhere to the briefing schedule outlined therein. See ECF No. 133.

Thanks.



**Holly E. Walker**  
Attorney at Law

**Jackson Lewis P.C.**  
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[Holly.Walker@Jacksonlewis.com](mailto:Holly.Walker@Jacksonlewis.com) | [www.jacksonlewis.com](http://www.jacksonlewis.com)

---

**From:** Song, Charles C - SOL <[Song.Charles.C@dol.gov](mailto:Song.Charles.C@dol.gov)>

**Sent:** Wednesday, January 12, 2022 10:49 AM

**To:** Walker, Holly E. (Las Vegas) <[Holly.Walker@Jacksonlewis.com](mailto:Holly.Walker@Jacksonlewis.com)>; Trimmer, Paul T. (Las Vegas) <[Paul.Trimmer@jacksonlewis.com](mailto:Paul.Trimmer@jacksonlewis.com)>; Sliker, Joshua A. (Las Vegas) <[Joshua.Sliker@Jacksonlewis.com](mailto:Joshua.Sliker@Jacksonlewis.com)>; Hoyt, Kyle J. (Las Vegas) <[Kyle.Hoyt@jacksonlewis.com](mailto:Kyle.Hoyt@jacksonlewis.com)>; Sutherland, Rick J. (Salt Lake City) <[Rick.Sutherland@jacksonlewis.com](mailto:Rick.Sutherland@jacksonlewis.com)>; Chatterjee, Milan (Las Vegas) <[Milan.Chatterjee@jacksonlewis.com](mailto:Milan.Chatterjee@jacksonlewis.com)>

**Cc:** Flores, Jessica - SOL SAN <[Flores.Jessica@dol.gov](mailto:Flores.Jessica@dol.gov)>; Panaccione, Kathryn A - SOL <[Panaccione.Kathryn.A@dol.gov](mailto:Panaccione.Kathryn.A@dol.gov)>; Clark, David H. - SOL <[Clark.David.H@dol.gov](mailto:Clark.David.H@dol.gov)>; Yee, Victoria W - SOL <[Yee.Victoria.W@dol.gov](mailto:Yee.Victoria.W@dol.gov)>

**Subject:** RE: Motion to Compel re Deliberative Process and Investigative Files Privilege without Bates numbers

**[EXTERNAL SENDER]**

Paul,

I just tried to call you to follow up on my email below and resolve the issues below without Court intervention. As we have yet to hear from you and given the urgency of the matter, we will request relief from the Court. If Defendants will agree to an extension and provide Bates numbers or wish to resolve these issues without Court intervention, please contact me.

Charles Song  
Senior Trial Attorney  
Office of the Solicitor  
U.S. Department of Labor  
350 S. Figueroa St., Suite 370  
Los Angeles, CA 90071  
(213) 894-5365

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**From:** Song, Charles C - SOL

**Sent:** Tuesday, January 11, 2022 5:37 PM

**To:** Walker, Holly E. (Las Vegas) <[Holly.Walker@Jacksonlewis.com](mailto:Holly.Walker@Jacksonlewis.com)>; Trimmer, Paul T. (Las Vegas) <[Paul.Trimmer@jacksonlewis.com](mailto:Paul.Trimmer@jacksonlewis.com)>; Sliker, Joshua A. (Las Vegas) <[Joshua.Sliker@Jacksonlewis.com](mailto:Joshua.Sliker@Jacksonlewis.com)>; Hoyt, Kyle J. (Las Vegas) <[Kyle.Hoyt@jacksonlewis.com](mailto:Kyle.Hoyt@jacksonlewis.com)>; Sutherland, Rick J. (Salt Lake City) <[Rick.Sutherland@jacksonlewis.com](mailto:Rick.Sutherland@jacksonlewis.com)>; Chatterjee, Milan (Las Vegas) <[Milan.Chatterjee@jacksonlewis.com](mailto:Milan.Chatterjee@jacksonlewis.com)>

**Cc:** Flores, Jessica - SOL SAN <[Flores.Jessica@dol.gov](mailto:Flores.Jessica@dol.gov)>; Panaccione, Kathryn A - SOL <[Panaccione.Kathryn.A@dol.gov](mailto:Panaccione.Kathryn.A@dol.gov)>; Clark, David H. - SOL <[Clark.David.H@dol.gov](mailto:Clark.David.H@dol.gov)>; Yee, Victoria W - SOL <[Yee.Victoria.W@dol.gov](mailto:Yee.Victoria.W@dol.gov)>

**Subject:** Motion to Compel re Deliberative Process and Investigative Files Privilege without Bates numbers

Paul,

I'm not sure if you are aware but the 285 page exhibit (131-11) of our redacted documents are not Bates stamped. Attempting to review 285 pages of documents which appear to include numerous documents that were not used as deposition exhibits makes it very difficult for the Court and Secretary to review your motion when he has

produced approximately 40,000 documents in this case. Was this a mistake and are Defendants' planning to correct it and refile the exhibit to assist the Court and the Secretary review your motion?

We believe this issue should be resolved via a stipulation to delay all briefing on your motion for two weeks so that the exhibit can be refiled with Bates numbers and the Secretary has time to review and respond to your motion which includes challenged redactions we are seeing for the first time. As this is a time sensitive matter, please advise as to Defendants' position as soon as possible.

Charles Song  
Senior Trial Attorney  
Office of the Solicitor  
U.S. Department of Labor  
350 S. Figueroa St., Suite 370  
Los Angeles, CA 90071  
(213) 894-5365

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*Attorneys for Plaintiff*  
*United States Secretary of Labor*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA

MARTIN J. WALSH, Secretary of Labor, United  
States Department of Labor

Plaintiff,

v.

Unforgettable Coatings, Inc., a Nevada Corporation; et  
al.

Defendants.

Case No. 2:20-cv-00510-KJD-DJA

**[PROPOSED] ORDER**

Presently before the Court is the Secretary's Unopposed Motion to Extend Deadline. Having read and considered the motion and good cause being found, it is hereby **GRANTED**. The briefing schedule will be altered as follows: The Secretary's opposition briefs will be due Monday, January 31, 2022. Defendants' reply briefs will be due Monday, February 7, 2022.

**IT IS SO ORDERED.**

Dated this 14th day of January \_\_, 2022.

\_\_\_\_\_  
Daniel J. Albregts  
Honorable Magistrate Judge